

Rec'd PCT/PTO 03 JUN 2004

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent Office on the date indicated below.

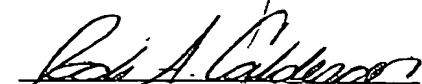
Attention: PCT Legal Administrator

Facsimile: 703-308-6459  
Total Pages: 27

09:937331

09/937331

DSB

  
Jodi A. Calderon

Date: June 3, 2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.: 09/937,331

Examiner: (not yet assigned)

Filing Date: September 21, 2001

Group Art Unit: 1723

Inventor: Kunze

Attorney Docket No. 72.053

Assignee: Wacker Construction Equipment AG

Invention: *Internal Vibrator with a Measuring System*PETITION UNDER 37 CFR §1.181(a)(3) TO INVOKE  
THE COMMISSIONER'S SUPERVISORY AUTHORITY

Mail Stop PCT  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Attention: PCT Legal Administrator

Sir:

RECEIVED

03 JUN 2004

Legal Staff  
International DivisionSTATEMENT OF FACTS

Petitioner filed a Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b) (Form PTO/SB/64/PCT) and accompanying documents on December 11, 2001. A copy of said Petition is attached as Appendix A. A self-addressed stamped postcard receipt, accompanying said Petition, was received by the PCT Branch of the USPTO on February 4, 2002 (see Appendix B). On April 12, 2002, Petitioner received a Notice of Cancellation of Assigned Serial Number, dated April 5, 2002, indicating that parallel Serial No. 10/049,135 was being cancelled. The

(00060967.DOC /)

BEST AVAILABLE COPY

U.S. Serial No. 09/937,331 to Kunze  
Art Unit: 1723  
Page 2

Notice also indicated that any fees associated with Serial No. 10/049,125 had been credited to Petitioner's Deposit Account No. 50-1170. See Appendix C. After failing to receive any additional communication regarding this application, Petitioner filed first, second, and third status inquiry letters on May 21, 2003, September 15, 2003, and March 8, 2004, respectively. See Appendix D. No response has been received. During a telephone conversation with the PCT Help Desk on or about May 27, 2004, Petitioner learned that no action has yet been taken on the petition filed December 11, 2001. Petitioner additionally learned that, contrary to the indication set forth in the Notice of April 5, 2002, fees associated with 10/049,135 apparently are still indicated as being credited towards that now cancelled serial number.

Nearly thirty (30) months have now passed since the filing of the Petition on December 11, 2001 petition.

**POINTS TO BE REVIEWED AND ACTIONS REQUESTED**

In light of the foregoing, Petitioner hereby petitions to invoke the Commissioner's supervisory authority to take the following actions at the earliest possible date:

1. Consideration and grant of the Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b), filed December 11, 2001;
2. Crediting any fees associated with Serial No. 10/049,135 that were not previously so credited to Petitioner's Deposit Account No. 50-1170; and

U.S. Serial No. 09/937,331 to Kunze  
Art Unit: 1723  
Page 3

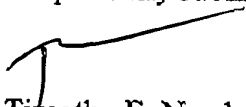
3. Forwarding of this communication to the appropriate Examination Group for further action.

### CONCLUSIONS

No fee is believed to be payable with this communication. Nevertheless, should the Commissioner consider any other fees to be payable in conjunction with this or any future communication, the Commissioner is authorized to direct payment of such fees, or credit any overpayment to Deposit Account No. 50-1170.

The Examiner is invited to contact the undersigned by telephone if it would help expedite matters.

Respectfully submitted,

  
Timothy E. Newholm  
Registration No. 34,400

Dated: June 3, 2004

Customer Account No. 23598

BOYLE FREDRICKSON NEWHOLM  
STEIN & GRATZ S.C.  
250 East Wisconsin Avenue  
Milwaukee, WI 53202  
Telephone: (414) 225-9755  
Facsimile: (414) 225-9753

## **APPENDIX A**

**Petition for Revival of an International Application for Patent Designating the U.S.  
Abandoned Unintentionally Under 37 CFR 1.137(b) (Form PTO/SB/64/PCT) and  
accompanying documents filed on December 11, 2001**

PTO/SB/64/PCT (10-00)

Approved for use through 12/31/2002, OMB 0661-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT  
DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137 (b)**Docket Number (Optional)  
72,053

First named inventor:

International (PCT) Application No.: PCT/EPOO/02138

US Application No.: 09/937,331  
(if known)

Filed: September 21, 2001

Title: *Internal Vibrator with a Measuring System*

Attention: PCT Legal Staff

Box PCT

Assistant Commissioner for Patents

Washington, D.C. 20231

The above-identified application became abandoned as to the United States because the fees and documents required by 35 U.S.C. 371(c) were not filed prior to the expiration of the time set in 37 CFR 1.494(b) or (c) or 1.495(b) or (c) (as applicable). The date of abandonment is the day after the date on which the 35 U.S.C. 371(c) requirements were due. See 37 CFR 1.494(g) or 1.495(h).

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee
- (2) Proper reply
- (3) Terminal disclaimer with disclaimer fee — required for all international applications having an international filing date before June 8, 1995; and
- (4) Statement that the entire delay was unintentional.

**1. Petition fee**☐ Small entity — fee \_\_\_\_\_ (37 CFR 1.17(m)). Applicant claims small entity status.  
See 37 CFR 1.27.☒ Other than small entity - fee \$1,280.00 (37 CFR 1.17(m))**2. Proper reply**

A. The proper reply (the missing 35 U.S.C. 371(c) requirements) in the form of payment of U.S. Basic National Fee in the amount of \$1,060 (identify type of reply):

- ☐ has been filed previously on \_\_\_\_\_
- ☒ is enclosed herewith.

[Page 1 of 2]

Burden Hour Statement: This form is estimated to take 1.0 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231

PTO/SB/64/PCT (10-00)

Approved for use through 10/31/2002. OMB 0851-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

## 3. Terminal disclaimer with disclaimer fee

- ☒ Since this international application has an international filing date on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

## 4. Statement. The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

12/12/01  
Date

Timothy E. Newholm  
Signature

Timothy E. Newholm  
Typed or printed name

Telephone  
Number: 414.225.9755

250 East Wisconsin Avenue, Suite 1030  
Address

Milwaukee, WI 53202

Enclosures: ☒ Response

☒ TOTAL Fee Payment = \$2510, including Petition fee (\$1,280), U.S. Basic National Fee (\$1,060); surcharge late filing of Declaration (\$130); Assignment recordation fee (\$40).

☐ Terminal Disclaimer Form

☒ OTHER: Fee Transmittal; Transmittal Letter to US Designated/Elected Office; executed Declaration; Assignment with Recordation Coversheet; Appointment of Domestic Representative

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**FEE TRANSMITTAL  
for FY 2001**

Patent fees are subject to annual revision.

TOTAL AMOUNT OF PAYMENT (\$2,510)

**Complete if Known**

Application Number	09/937,331
Filing Date	September 21, 2001
First Named Inventor	Kunze
Examiner Name	
Group Art Unit	
Attorney Docket No.	72.053

**METHOD OF PAYMENT**

- 1.
- ☒
- The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to:

Deposit Account Number  
Deposit Account Name

50-1170

Boyle, Fredrickson, Newholm, Stein &amp; Gratz S.C.

☒

Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17

Applicant claims small entity status. See 37 CFR 1.27

2. ☒

Payment Enclosed:

☒

Check

☐ Credit Card☐ Money Order☐ Other**FEE CALCULATION****1. BASIC FILING FEE**

Large Fee Code	Large Entity Fee (\$)	Small Fee Code	Small Entity Fee (\$)	Fee Description	Fee Paid
101	740	201	370	Utility filing fee	
106	330	206	165	Design filing fee	
107	510	207	255	Plant filing fee	
108	740	208	370	Reissue filing fee	
114	160	214	80	Provisional filing fee	

SUBTOTAL (1) (\$)

**2. EXTRA CLAIM FEES**

Total Claims	Extra Claims	Fee from below	Fee Paid
Independent	-20**=	X	
Multiple Dependent	-3**=	X	

Large Fee Code	Large Entity Fee (\$)	Small Fee Code	Small Entity Fee (\$)	Fee Description
103	18	203	9	Claims in excess of 20
102	84	202	42	Independent claims in excess of 3
104	280	204	140	Multiple dependent claim, if not paid
109	84	209	42	**Reissue independent claims over original patent
110	18	210	9	**Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$)

\*\* or number previously paid, if greater; For Reissues, see above

**FEE CALCULATION (continued)****3. ADDITIONAL FEES**

Large Fee Code	Large Entity Fee (\$)	Small Fee Code	Small Entity Fee (\$)	Fee Description	Fee Paid
105	130	205	65	Surcharge - late filing fee or oath	130
127	50	227	25	Surcharge - late provisional filing fee or cover sheet	
139	130	139	130	Non-English specification	
147	2,520	147	2,520	For filing a request for ex parte reexamination	
112	920*	112	920*	Requesting publication of SIR prior to Examiner action	
113	1,840*	113	1,840*	Requesting publication of SIR after Examiner action	
115	110	215	55	Extension for reply within first month	
116	400	216	200	Extension for reply within second month	
117	920	217	460	Extension for reply within third month	
118	1,440	218	720	Extension for reply within fourth month	
128	1,960	228	980	Extension for reply within fifth month	
119	320	219	160	Notice of Appeal	
120	320	220	160	Filing a brief in support of an appeal	
121	280	221	140	Request for oral hearing	
138	1,510	138	1,510	Petition to institute a public use proceeding	
140	110	240	55	Petition to revive - unavoidable	
141	1,280	241	640	Petition to revive - unintentional	1,280
142	1,280	242	640	Utility issue fee (or reissue)	
143	460	243	230	Design issue fee	
144	620	244	310	Plant issue fee	
122	130	122	130	Petitions to the Commissioner	
123	50	123	50	Processing fee under 37 CFR 1.17(q)	
126	180	126	180	Submission of Information Disclosure Stmt	
581	40	581	40	Recording each patent assignment per property (times number of properties)	40
146	740	246	370	Filing a submission after final rejection (37 CFR § 1.129(a))	
149	740	249	370	For each additional invention to be examined (37 CFR § 1.129(b))	
179	740	279	370	Request for Continued Examination (RCE)	
169	900	169	900	Request for expedited examination of a design application	
Other fee (specify) U.S. Basic National Fee - 30 Month					1,060

Other fee (specify) U.S. Basic National Fee - 30 Month

\*Reduced by Basic Filing Fee Paid

SUBTOTAL (3)

(\$2,510)

**SUBMITTED BY**

Name (Print/Type)	Timothy E. Newholm	Registration No. (Attorney/Agent)	34,400	Telephone	(414) 225-9755
Signature		Date	December 11, 2001		

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

FORM PTO-1390  
(REV 11-2000)

U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE

ATTORNEY'S DOCKET NUMBER  
72.053TRANSMITTAL LETTER TO THE UNITED STATES  
DESIGNATED/ELECTED OFFICE (DO/EO/US)  
CONCERNING A FILING UNDER 35 U.S.C. 371

U.S. APPLICATION NO. (if known, see 37 CFR 1.5)

INTERNATIONAL APPLICATION NO.  
PCT/EP00/02138INTERNATIONAL FILING DATE  
10 March 2000PRIORITY DATE CLAIMED  
March 23, 1999TITLE OF INVENTION *Internal Vibrator with a Measuring System*APPLICANT(S) FOR DO/EO/US **Günter KUNZE, Georg SICK and Stefan GRAUL**

Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:

1. ☐ This is a **FIRST** submission of items concerning a filing under 35 U.S.C. 371.
2. ☐ This is a **SECOND** or **SUBSEQUENT** submission of items concerning a filing under 35 U.S.C. 371.
3. ☐ This is an express request to begin national examination procedures (35 U.S.C. 371 (f)). The submission must include items (5), (6), (9) and (21) indicated below.
4. ☐ The US has been elected by the expiration of 19 months from the priority date (Article 31).
5. ☐ A copy of the International Application as filed (35 U.S.C. 371 (c)(2))
  - a. ☐ is attached hereto (required only if not communicated by the International Bureau).
  - b. ☐ has been communicated by the International Bureau.
  - c. ☐ is not required, as the application was filed in the United States Receiving Office (RO/US).
6. ☐ An English language translation of the International Application as filed (35 U.S.C. 371 (c)(2)).
  - a. ☐ is attached hereto.
  - b. ☐ has been previously submitted under 35 U.S.C. 154(d)(4).
7. ☐ Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371(c)(3))
  - a. ☐ are attached hereto (required only if not communicated by the International Bureau).
  - b. ☐ have been communicated by the International Bureau.
  - c. ☐ have not been made; however, the time limit for making such amendments has NOT expired.
  - d. ☐ have not been made and will not be made.
8. ☐ An English language translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371(c)(3)).
9. ☒ An oath or declaration of the inventor(s) (35 U.S.C. 371(c)(4)). - **EXECUTED**
10. ☐ An English language translation of the annexes to the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371(c)(5)).

Items 11 to 20 below concern document(s) or information included:

11. ☐ An Information Disclosure Statement under 37 CFR 1.97 and 1.98.
12. ☒ An assignment document for recording and Appointment of Domestic Representative. **EXECUTED**
13. ☐ A **FIRST** preliminary amendment.
14. ☐ A **SECOND** or **SUBSEQUENT** preliminary amendment.
15. ☐ A substitute specification.
16. ☐ A change of power of attorney and/or address letter.
17. ☐ A computer-readable form of the sequence listing in accordance with PCT Rule 13ter.2 and 35 U.S.C. 1.821 - 1.825.
18. ☐ A second copy of the published international application under 35 U.S.C. 154(d)(4).
19. ☐ A second copy of the English language translation of the international application under 35 U.S.C. 154(d)(4).
20. ☐ Other items or information:



U.S. APPLICATION NO. (if known, see 37 CFR 1.3)		INTERNATIONAL APPLICATION NO. <b>PCT/00/02138</b>		ATTORNEY'S DOCKET NUMBER <b>72.053</b>	
---	--	--	--	---	--

21. ☐ The following fees are submitted:

**BASIC NATIONAL FEE (37 CFR 1.492 (a) (1) - (5)) :**

Neither international preliminary examination fee (37 CFR 1.482) nor international search fee (37 CFR 1.445(a)(2)) paid to USPTO and International Search Report not prepared by the EPO or JPO ..... **\$1040.00**

International preliminary examination fee (37 CFR 1.482) not paid to USPTO but International Search Report prepared by the EPO or JPO ..... **\$890.00**

International preliminary examination fee (37 CFR 1.482) not paid to USPTO but international search fee (37 CFR 1.445 (a)(2)) paid to USPTO ..... **\$740.00**

International preliminary examination fee (37 CFR 1.482) paid to USPTO but all claims did not satisfy provisions of PCT Article 33(1)-(4) ..... **\$710.00**

International preliminary examination fee (37 CFR 1.482) paid to USPTO and all claims satisfied provisions of PCT Article 33(1)-(4) ..... **\$100.00**

**ENTER APPROPRIATE BASIC FEE AMOUNT =**

Surcharge of **\$130.00** for furnishing the oath or declaration later than ☐ 20 ☒ 30 months from the earliest claimed priority date (37 CFR 1.492(e)).

CLAIMS	NUMBER FILED	NUMBER EXTRA	RATE	\$
Total claims	0 - 20 =	0	X \$18.00	\$ 0.00
Independent claims	0 - 3 =	0	X \$80.00	\$ 0.00
MULTIPLE DEPENDENT CLAIM(S) (if applicable)				+ \$270.00 \$ 0.00
<b>TOTAL OF ABOVE CALCULATIONS =</b>				\$ 0.00
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27. The fees indicated above are reduced by 1/2.				+ \$ 0.00
<b>SUBTOTAL =</b>				\$ 0.00
Processing fee of <b>\$130.00</b> for furnishing the English translation later than <input type="checkbox"/> 20 <input type="checkbox"/> 30 months from the earliest claimed priority date (37 CFR 1.49(f)).				\$ 0.00
<b>TOTAL NATIONAL FEE =</b>				\$ 1020.00
Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31). <b>\$40.00</b> per property				+ \$ 40.00
<b>TOTAL FEES ENCLOSED =</b>				\$ 1060.00
				Amount to be: refunded \$
				charged \$

**CALCULATIONS PTO USE ONLY**

a. ☒ A check in the amount of \$ 1060.00 to cover the above fees is enclosed.

b. ☐ Please charge my Deposit Account No. \_\_\_\_\_ in the amount of \$ \_\_\_\_\_ to cover the above fees. A duplicate copy of this sheet is enclosed.

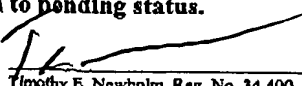
c. ☒ The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 50-1170. A duplicate copy of this sheet is enclosed.

d. ☐ Fees are to be charged to a credit card. **WARNING:** Information on this form may become public. **Credit card information should not be included on this form.** Provide credit card information and authorization on PTO-2038.

**NOTE:** Where an appropriate time limit under 37 CFR 1.494 or 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b)) must be filed and granted to restore the application to pending status.

SEND ALL CORRESPONDENCE TO:

Timothy E. Newholm  
**BOYLE, FREDRICKSON, NEWHOLM, STEIN & GRATZ S.C.**  
 250 E. Wisconsin Ave., Ste. 1030  
 Milwaukee, WI 53202

  
 Timothy E. Newholm, Reg. No. 34,400

# DECLARATION FOR PATENT APPLICATION

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name. I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled **INTERNAL VIBRATOR WITH A MEASURING SYSTEM**, which is described and claimed in

- ☐ the attached specification.
- ☒ the specification in application \_\_\_\_\_, filed on **September 21, 2001**  
and amended on \_\_\_\_\_ (if applicable).
- ☐ international (PCT) application No. \_\_\_\_\_, filed on \_\_\_\_\_  
and as amended on \_\_\_\_\_ (if applicable).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is known to be material to the patentability of this application in accordance with Title 37, Code of Federal Regulations, §1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, §119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed.

Prior Foreign Application(s)

Priority Claimed

<u>199 13 077 9</u> (Number)	<u>Germany</u> (Country)	<u>23 March 1999</u> (Day/Month/Year Filed)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<u>PCT/EP00/02138</u> (Number)	<u>PCT</u> (Country)	<u>10 March 2000</u> (Day/Month/Year Filed)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose information which is known to be material to the patentability of this application as defined in Title 37, Code of Federal Regulations, §1.56 which occurred between the filing date of the prior application and the national or PCT international filing date of this application.

_____ (Application Number)	_____ (Filing Date)	_____ (Status - Patented, Pending, Abandoned)
_____ (Application Number)	_____ (Filing Date)	_____ (Status - Patented, Pending, Abandoned)

I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith: James F. Boyle, Reg. No. 33,653; Timothy E. Newholm, Reg. No. 34,400; Peter C. Stomma, Reg. No. 36,020; David D. Stein, Reg. No. 40,828; Michael J. Gratz, Reg. No. 39,693; Mary B. Eberle, Reg. No. 43,599; Peter C. Stomma, Reg. No. 36,020; Andrew S. McConnell, Reg. No. 32,272; and Mathew E. Corr, Reg. No. 45,434.

Address all telephone calls to Timothy E. Newholm at telephone number (414) 225-9755, facsimile number (414) 225-9753.

Address all correspondence to: Timothy E. Newholm  
BOYLE FREDRICKSON NEWHOLM STEIN & GRATZ S.C.  
250 Plaza, Suite 1030  
250 East Wisconsin Avenue  
Milwaukee, Wisconsin 53202

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

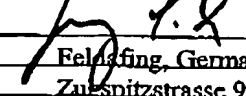
Full name of sole or first inventor (given name, family name): Günter KUNZE

Inventor's signature: *Günter Kunze* Date: Oct. 5, 2001  
Residence: Freital-Weissig, Germany Citizenship: Germany  
Post Office Address: Steile Strasse 22  
D-01705 Freital-Weissig, Germany


Title: *Internal Vibrator with a Measuring System*

Inventors: Günter KUNZE, Georg SICK and Stefan GRAUL

Full name of second inventor (given name, family name): Georg SICK

Inventor's signature:  Date: Oct 5, 2001  
Residence: Feldafing, Germany Citizenship: Germany  
Post Office Address: Zugspitzstrasse 9  
D-82340 Feldafing, Germany

Full name of third inventor (given name, family name): Stefan GRAUL

Inventor's signature:  Date: Oct 5, 2001  
Residence: Wörlitz, Germany Citizenship: Germany  
Post Office Address: Neue Reihe 180  
Wörlitz, Germany D-06786

Form PTO -1619A

Expires 06/30/99

OMB 0651-0027

U.S. Department of Commerce  
Patent and Trademark Office  
PATENTRECORDATION FORM COVER SHEET  
PATENTS ONLY

72.053

TO: The Commissioner of Patents and Trademarks: Please record the attached original document(s) or copy(ies)

## Submission Type

☒ New☐ Resubmission (Non-Recordation)  
Document ID#☐ Correction of PTO Error  
Reel # Frame #☐ Corrective Document  
Reel # Frame #

## Conveyance Type

☒ Assignment ☐ Security Agreement☐ License ☐ Change of Name☐ Merger ☐ OtherU.S. Government  
(For Use ONLY by U.S. Government Agencies)☐ Departmental File ☐ Secret File

## Conveying Party(ies)

☐ Mark if additional names of conveying parties attached

Name (line 1) Günter

Name (line 2) Kunze

## Second Party

Name (line 1) Georg

Name (line 2) SICK

## Third Party

Name (line 1) Stefan

Name (line 2) GRAUL

Execution Date  
Month Day Year  
October 5, 2001Execution Date  
Month Day Year  
October 5, 2001Execution Date  
Month Day Year  
October 5, 2001

## Receiving Party

☐ Mark if additional names of receiving parties attached

Name (line 1) Wacker-Werke GmbH &amp; Co. KG

Name (line 2)

Address (line 1) Hauptverwaltung Munich

Address (line 2) Preussenstrasse 41

Address (line 3) Munich

Germany  
State/CountryD-80935  
Zip Code☒ If document to be recorded is  
an assignment and the  
receiving party is not  
domiciled in the United  
States, an appointment of a  
domestic representative is  
attached. (Designation  
must be a separate  
document from Assignment.)

## Domestic Representative Name and Address

Enter for the first Receiving Party only.

Name

Address (line 1) Boyle Fredrickson Newholm Stein &amp; Gratz S.C.

Address (line 2) 250 East Wisconsin Avenue, Suite 1030

Address (line 3) Milwaukee, WI 53202-4232

Address (line 4)

FOR OFFICE USE ONLY

Public burden reporting for this collection of information is estimated to average approximately 30 minutes per Cover Sheet to be recorded, including time for reviewing the document and gathering the data needed to complete the Cover Sheet. Send comments regarding this burden estimate to the U.S. Patent and Trademark Office, Chief Information Officer, Washington, D.C. 20231 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project (0651-0027), Washington, D.C. 20503. See OMB Information Collection Budget Package 0651-0027, Patent and Trademark Assignment Practice. DO NOT SEND REQUESTS TO RECORD ASSIGNMENT DOCUMENTS TO THIS ADDRESS.

Mail documents to be recorded with required cover sheet(s) information to:

{00013370.DOC /}

Commissioner of Patents and Trademarks, F Assignments, Washington, D.C. 20231

FORM PTO-1619B

Expires 06/30/99

OMB 0651-0027

Page 2

U.S. Department of Commerce  
Patent and Trademark Office  
PATENT

## Correspondent Name and Address

Area Code and Telephone Number 414.225.9755

Name Timothy E. Newholm

Address (line 1) Boyle Fredrickson Newholm Stein &amp; Gratz S.C.

Address (line 2) 250 East Wisconsin Avenue, Suite 1030

Address (line 3) Milwaukee, WI 53202-4232

Address (line 4)

## Pages

Enter the total number of pages of the attached conveyance document  
including any attachments.

# 2

## Application Number(s) or Patent Number(s)

( ) Mark if additional numbers attached

Enter either the Patent Application Number or the Patent Number (DO NOT ENTER BOTH numbers for the same property).  
Patent Application Number(s) Patent Number(s)

09/937,331

If this document is being filed together with a new Patent Application, enter the date the patent application was  
signed by the first named executing inventor.

Month Day Year

## Patent Cooperation Treat (PCT)

Enter PCT application number  
only if a U.S. Application Number  
has not been assigned.

PCT

PCT

PCT

PCT

PCT

PCT

## Number of Properties

Enter the total number of properties involved.

# 1

## Fee Amount

Fee Amount for Properties Listed (37 CFR 3.41):

\$ 40.00

Method of Payment:

Enclosed ( X )

Deposit Account ( )

Deposit Account

(Enter for payment by deposit account or if additional fees can be charged to the account.)

Deposit Account Number:

# 50-1170

Authorization to charge additional fees: Yes ( X )

No ( )

## Statement and Signature

To the best of my knowledge and belief, the foregoing information is true and correct and any  
attached copy is a true copy of the original document. Charges to deposit account are authorized, as  
indicated herein.

Timothy E. Newholm

Name of Person Signing

Signature

December 11, 2001

Date

## ASSIGNMENT

WHEREAS, we, Günter KUNZE, Georg SICK and Stefan GRAUL, have made a certain new and useful invention for which we are about to make application for Letters Patent of the United States, which application may be identified in the United States Patent Office as Serial No. 09/937,331, filed September 21, 2001 and entitled:

*Internal Vibrator with a Measuring System*(Executed: 10/5/2001)

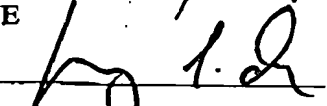
WHEREAS, Wacker-Werke GmbH & Co. KG, a corporation organized and existing under and by virtue of the laws of the Country of Germany and having its principal place Munich, Germany, is desirous of acquiring the entire interest in and to said invention, said application and the Letters Patent to be obtained therefore;

NOW, THEREFORE, for and in consideration of One Dollar and other good and valuable consideration to us in hand paid, the receipt and sufficiency whereof are hereby acknowledged, we have sold, assigned, and set over and by these presents do hereby sell, assign, and set over unto the said Wacker-Werke GmbH & Co. KG, and said assignee's legal representative, successors and assigns, the entire right, title and interest in and to any and all applications including the aforesaid application, for Letters Patent heretofore and hereafter filed in the United States or any other country and which may be based in whole or in part on said inventions and discoveries, and in and to any and all Letters Patent heretofore or hereafter granted by the United States or any other country and which may be based in whole or in part on said inventions and discoveries, said assignment including the right to file and prosecute any and all such applications and also including the right to sue and recover for any and all such applications and also including the right to sue and recover for any and all infringements of said patents; and request the Commissioner of Patents to issue said Letters Patent to the above-mentioned assignee agreeably with the terms of this assignment.

WE HEREBY AUTHORIZE the law firm of Boyle Fredrickson Newholm Stein & Gratz S.C. the power to insert in this instrument any further identification which may be necessary or desirable in order to comply with the rules of the United States Patent Office for recordation of this document.

UPON SAID CONSIDERATION, we do hereby covenant for ourselves and our heirs, legal representatives and assigns that neither we nor any of my said heirs, legal representatives or assigns have or will execute any instrument or perform any act in conflict herewith and that we or our said heirs, legal representatives and assigns will at all times do such acts and execute such papers, without expense to ourselves, as may be necessary or desirable in order to fully protect said inventions and discoveries for the benefit of said assignee, its successors or assigns, and to otherwise carry into full force and effect the text and interest of this assignment.

IN WITNESS WHEREOF, we have hereunto set our hands and affixed our seals.

Date: Oct. 5, 2001  
Günter KUNZE (SEAL)Date: Oct. 5, 2001  
Georg SICK (SEAL)Date: Oct. 5, 2001  
Stefan GRAUL (SEAL)

BOYLE FREDRICKSON NEWHOLM  
STEIN & GRATZ S.C.  
250 Plaza, Suite 1030  
250 East Wisconsin Avenue  
Milwaukee, WI 53202  
Telephone: 414.225.9755

## IN THE UNITED STATES PATENT AND TRADEMARK

National Phase of PCT/EP00/02138

International Filing Date: 10 March 2000

Inventors: Günter KUNZE, Georg SICK and Stefan GRAUL

Title: *Internal Vibrator with a Measuring System*

Priority: German Application No. 199 13 077.9; Filed 23 March 1999

Director of the U.S. Patent  
and Trademark Office  
Washington, D.C. 20231

## APPOINTMENT OF DOMESTIC REPRESENTATIVE

Applicants appoint BOYLE FREDRICKSON NEWHOLM STEIN & GRATZ S.C., a firm of professional corporations, of 250 East Wisconsin Avenue, Suite 1030, Milwaukee, Wisconsin 53202, United States of America, comprising James F. Boyle, Reg. No. 33,653, Timothy E. Newholm, Reg. No. 34,400, David D. Stein, Reg. No. 40,828, Michael J. Gratz, Reg. No. 39,693, Peter C. Stomma, Reg. No. 36,020, Mary E. Eberle, Reg. No. 43,599, Andrew S. McConnell, Reg. No. 32,272, and Mathew E. Corr, Reg. No. 45,434, all members of the bar of the State of Wisconsin, to prosecute the above-referenced application to register and to transact all business in the Patent and Trademark Office in connection therewith.

WACKER-WERKE GmbH &amp; CO. KG

Date: Munich, 28, 2001By:  Name: Jürgen Gentz Richard MayerTitle: General Counsel Head of Controlling

13386

DATE	DESCRIPTION	INVOICE #	CHECK	AMOUNT	DEDUCTION	NET AMOUNT
12/12/01	Director of U.S. Patent & Trademark Ofc. Basic National Filing Fee, Declaration, Assignment/72.053			2510.00		2510.00

CHECK DATE 12/12/01	CONTROL NUMBER 13386	TOTALS ► Gross: 2510.00 Ded: 0.00 Net: 2510.00
------------------------	-------------------------	--



BOYLE, FREDRICKSON, NEWHOLM,  
STEIN & GRATZ, S.C.  
250 E. WISCONSIN AVE.  
SUITE 1030  
MILWAUKEE, WI 53202

M&I MARSHALL & JLSLEY BANK  
12-5-750

13386

INTERESTUAL PROPERTY LAW

DATE	CHECK	AMOUNT
12/12/01		**\$2,510.00

PAY \*\*\* TWO THOUSAND FIVE HUNDRED TEN & 00/100 DOLLARS

TO THE ORDER OF: Director of U.S. Patent & Trademark Ofc.  
Washington, DC 20231

TWO SIGNATURES REQUIRED ON AMOUNTS EXCEEDING \$5000

⑈013386⑈ ⑆075000051⑆ 00021⑈1721⑈

Serial No.: 09/937,331 Filing Date: September 21, 2001

Inventor(s): Kunze et al.

The following dated December 12, 2001 has been received in the U.S. Patent Office on the DATE STAMPED hereon:

- ☒ Petition for Revival of an International Application for Patent Designating the U.S.
- ☐ Abandoned Unintentionally Under 37 CFR 1.137(b)
- ☐ Amendment w/attached Marked-Up Version of Amended Claim
- ☒ Transmittal Letter to US Designated/Elected Office
- ☐ Formal Drawing Transmittal
- ☐ Informal/Formal Drawings: sheets
- ☒ Declaration for Patent Application
- ☒ Assignment of Invention w/Recordation Coversheet and Appointment of Domestic Representative
- ☒ Fee Transmittal
- ☒ Check in the amount of \$2,510.00
- ☐ Information Disclosure Statement w/ PTO-1449, cited reference
- ☐ Priority Document No. , filed
- ☐ Other:



## **APPENDIX B**

A self-addressed stamped postcard receipt, accompanying said Petition, was received by the PCT Branch of the USPTO on February 4, 2002

Serial No.: 09/937,331 Filing Date: September 21, 2001

Inventor(s): Kunze et al.

The following dated December 12, 2001 has been received in the U.S. Patent Office on the **DATE STAMPED** hereon:

- ☒ Petition for Revival of an International Application for Patent Designating the U.S.
- ☐ Abandoned Unintentionally Under 37 CFR 1.137(b)
- ☐ Amendment w/attached Marked-Up Version of Amended Claim
- ☒ Transmittal Letter to US Designated/Elected Office
- ☐ Formal Drawing Transmittal
- ☐ Informal/Formal Drawings: 4 sheets
- ☒ Declaration for Patent Application
- ☒ Assignment of Invention w/Recordation: Coversheet and Appointment of Domestic Representative
- ☒ Fee Transmittal
- ☒ Check in the amount of \$2,510.00
- ☐ Information Disclosure Statement w/ PTO-1449, cited reference
- ☐ Priority Document No.         , filed
- ☐ Other:

Attorney Ref No. 72,053

10/049135

JC10 Rec'd PCT/PTO 04 FEB 2002

00000425.DOC/A

## **APPENDIX C**

Notice of Cancellation of Assigned Serial Number, dated April 5, 2002



UNITED STATES PATENT AND TRADEMARK OFFICE

Communications for Patents, Designs,  
United States Patent and Trademark Office  
Washington, D.C. 20231  
www.uspto.gov

U.S. APPLICATION NUMBER NO.

09/937,331

FIRST NAMED APPLICANT

Gunter Kunze

ATTY. DOCKET NO.

72.053

23598

BOYLE FREDRICKSON NEWHOLM STEIN & GRATZ, S.C.  
250 E. WISCONSIN AVENUE  
SUITE 1030  
MILWAUKEE, WI 53202

INTERNATIONAL APPLICATION NO.

PCT/EP00/02138

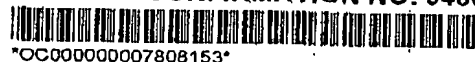
I.A. FILING DATE

03/10/2000

PRIORITY DATE

03/23/1999

CONFIRMATION NO. 9486



\*OC000000007808153\*

Date Mailed: 04/05/2002

## NOTICE OF CANCELLATION OF ASSIGNED SERIAL NUMBER

Documents filed under 35 U.S.C. 371 to enter the national stage before the US Designated/Elected Office were received by the US Patent and Trademark Office on 9/21/01 and assigned serial number 9/937331.

Documents filed later under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 were received on 2/4/02 and assigned serial number 10/049135.

The assigned serial number 10/049135 has been cancelled and other assigned serial number should be used when filing papers in the Patent and Trademark Office.

Note: *Any fees associated with 10/049135 have been credited to Deposit acct # 50-170.*

Applicant will be receiving further communications concerning 35 U.S.C. 371 in due course.

Applicant is reminded that any communication mailed to the United States Patent and Trademark Office must be directed to the address and include the U.S. application no. in the heading above (37 CFR 1.5).

*For Donna Greene*  
WINSTON M ALVARADO

Telephone: (703) 305-6421

PART 1 - ATTORNEY/APPLICANT COPY

FORM PCT/DO/EO/908 (Canceled Application Number)

## **APPENDIX D**

First, second, and third status inquiry letters dated May 21, 2003, September 15, 2003, and March 8, 2004, respectively

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated below.

  
Jodi A. Calderon

Date:

5-21-03

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.: 09/937,331

Examiner: (not yet assigned)

Filing Date: September 21, 2001

Group Art Unit: 1723

Inventor: Kunze

Attorney Docket No. 72.053

Assignee: Wacker Construction Equipment AG

Invention: *Internal Vibrator with a Measuring System*

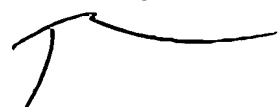
STATUS INQUIRY LETTER

Mail Stop PCT  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicant respectfully requests an update on the status of the above-referenced patent application since more than *twenty (20) months* have passed since the filing the patent application in which no Office Action has been issued to date.

Respectfully submitted,

  
Timothy E. Newholm  
Registration No. 34,400

Dated: May 21, 2003  
BOYLE FREDRICKSON NEWHOLM  
STEIN & GRATZ S.C.  
250 East Wisconsin Avenue  
Milwaukee, WI 53202  
Telephone: (414) 225-9755  
Facsimile: (414) 225-9753  
{00039392.DOC /}

Serial No.: 09/937,331 Filing Date: September 21, 2001

Inventor(s): Kunze

The following dated May 21, 2003 has been received in the U.S. Patent Office on the  
**DATE STAMPED** hereon:

☒ Status Inquiry w/Certificate of Mailing dated May 21, 2003 (1-page)

Also enclosed:

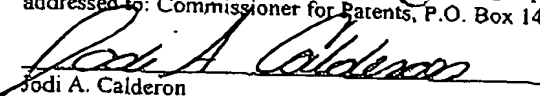
NOT APPLICABLE

☒ Other: Return postcard

Attorney Docket No.: 72.053

09/937,331 PCT/PTO 27 MAY 2003

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated below.

  
Jodi A. Calderon

Date:

9-15-03

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.: 09/937,331

Examiner: (not yet assigned)

Filing Date: September 21, 2001

Group Art Unit: 1723

Inventor: Kunze

Attorney Docket No. 72.053

Assignee: Wacker Construction Equipment AG

Invention: *Internal Vibrator with a Measuring System*

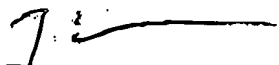
STATUS INQUIRY LETTER

Mail Stop PCT  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicant respectfully requests an update on the status of the above-referenced patent application since more than *eighteen (18) months* has passed since a Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b) was filed on February 4, 2002 in which no Decision on Petition has been issued to date.

Respectfully submitted,

  
Timothy E. Newholm  
Registration No. 34,400

Dated: September 15, 2003  
BOYLE FREDRICKSON NEWHOLM  
STEIN & GRATZ S.C.  
250 East Wisconsin Avenue  
Milwaukee, WI 53202  
Telephone: (414) 225-9755  
Facsimile: (414) 225-9753  
{00045955.DOC /}



Serial No.: 09/937,331 Filing Date: September 21, 2001

Inventor(s): Kunze

The following dated September 15, 2003 has been received in the U.S. Patent Office  
on the **DATE STAMPED** hereon:

X Status Inquiry w/Certificate of Mailing dated September 15, 2003 (1-page)

Also enclosed:

- Return postcard

Attorney Docket No.: 72.053

Attorney Initials: TEN

UT20 Rec'd PCT/PTO 17 SEP 2003

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated below.

Jodi A. Calderon  
Jodi A. Calderon

Date:

3-8-04

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.: 09/937,331

Examiner: (not yet assigned)

Filing Date: September 21, 2001

Group Art Unit: 1723

Inventor: Kunze

Attorney Docket No. 72.053

Assignee: Wacker Construction Equipment AG

Invention: *Internal Vibrator with a Measuring System*

THIRD STATUS INQUIRY LETTER

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Further to our Status Inquiries of May 21, 2003 and September 17, 2003, to which no response has been received, applicant respectfully requests an update on the status of the above-referenced patent application since nearly *twenty (24) months* has passed since a Notice of Cancellation of Assigned Serial Number was issued by the USPTO on April 5, 2002.

Respectfully submitted,

Timothy E. Newholm  
Timothy E. Newholm  
Registration No. 34,400

Dated: March 8, 2004  
BOYLE FREDRICKSON NEWHOLM  
STEIN & GRATZ S.C.  
250 East Wisconsin Avenue  
Milwaukee, WI 53202  
Telephone: (414) 225-9755  
Facsimile: (414) 225-9753

Serial No.: 09/937,331 Filing Date: September 21, 2001

Inventor(s): Kunze

The following dated March 8, 2004 has been received in the U.S. Patent Office on the  
**DATE STAMPED** hereon:

Status Inquiry w/Certificate of Mailing dated March 8, 2004 (1-page)

Also enclosed:

- Return postcard

Attorney Docket No.: 72.053



Attorney Initials: TEN

**This Page is Inserted by IFW Indexing and Scanning  
Operations and is not part of the Official Record**

**BEST AVAILABLE IMAGES**

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images include but are not limited to the items checked:

- ☐ **BLACK BORDERS**
- ☐ **IMAGE CUT OFF AT TOP, BOTTOM OR SIDES**
- ☐ **FADED TEXT OR DRAWING**
- ☒ **BLURRED OR ILLEGIBLE TEXT OR DRAWING**
- ☐ **SKEWED/SLANTED IMAGES**
- ☐ **COLOR OR BLACK AND WHITE PHOTOGRAPHS**
- ☐ **GRAY SCALE DOCUMENTS**
- ☐ **LINES OR MARKS ON ORIGINAL DOCUMENT**
- ☐ **REFERENCE(S) OR EXHIBIT(S) SUBMITTED ARE POOR QUALITY**
- ☐ **OTHER:** \_\_\_\_\_

**IMAGES ARE BEST AVAILABLE COPY.**

**As rescanning these documents will not correct the image problems checked, please do not report these problems to the IFW Image Problem Mailbox.**